

LETTER OF INTENT

WWS Properties, LLC

Proposed Zoning: R-75

1432 Windsor Parkway @ Silver Lake Drive

The subject property is approximately 1.131 acres of land located at the intersection of Windsor Parkway and Silver Lake Drive. The current zoning is R-100, which provides for single-family detached dwellings on 15,000 sq. ft. lots. The Applicant, WWS Properties, LLC, is requesting said property be rezoned to the R-75 zoning classification to allow for two (2) single-family detached residential dwellings. The Comprehensive Plan designates this property as a Lakes District Character Area, which seeks to preserve residential character and maintain existing densities. Since the current average density in the Lakes District Character Area is two (2) units per acre, the Applicant's proposal to place two (2) single-family residences on 1.131 acres is consistent with the intent of the Lakes District Character Area and Comprehensive Plan.

The hereinafter constitutional and ante litem notice is required by Georgia law.

The portions of the City of Brookhaven Zoning Ordinance, facially and as applied to the Property, which restrict the Property to any zoning classification, uses, or to any zoning district other than that proposed by the Applicant are unconstitutional in that they would destroy the Applicant's property rights without first paying fair, adequate and just compensation for such rights, in violation of Article I, Section I, Paragraph I and Section III, Paragraph I of the Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

The application of the City of Brookhaven Zoning Ordinance, facially and as applied to the Property, which restricts the Property to any zoning classification, uses, or to any zoning classification other than the classification as proposed by the Applicant is unconstitutional, illegal, null and void, constituting a taking of Applicant's Property in violation of the Just Compensation Clause of the Fifth Amendment to the Constitution of the United States; Article I, Section I, Paragraph I, and Section III, Paragraph I of the Constitution of the State of Georgia of 1983; and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States denying the Applicant an economically viable use of its land while not substantially advancing legitimate state interests.

A denial of this Application would constitute an arbitrary and capricious act by the City of Brookhaven City Council without any rational basis therefore constituting an abuse of discretion in violation of Article I, Section I, Paragraph I and Section III, Paragraph I of the

Constitution of the State of Georgia of 1983, and the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States.

A refusal by City of Brookhaven City Council to rezone the Property in accordance with the zoning criteria requirements as requested by the Applicant would be unconstitutional and discriminate in an arbitrary, capricious and unreasonable manner between the Applicant and owners of the similarly situated property in violation of Article I, Section I, Paragraph II of the Constitution of the State of Georgia of 1983 and the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States. Any rezoning of the Property subject to conditions which are different from the conditions requested by the Applicant, to the extent such different conditions would have the effect of further restricting Applicant's utilization of the Property, would also constitute an arbitrary, capricious and discriminatory act in zoning the Property to a unconstitutional classification and would likewise violate each of the provisions of the State and Federal Constitutions set forth hereinabove.

The existing zoning classification which prohibits the Applicant's use of the property is unconstitutional. This notice is being given to comply with the provisions of O.C.G.A. § 36-33-5 to afford the City an opportunity to revise the Property to a constitutional classification. If action is not taken by the City to rectify this unconstitutional zoning classification within a reasonable time, a claim will be filed in the Superior Court of DeKalb County demanding just and adequate compensation under Georgia law for the taking of the Property, diminution of value of the Property, attorney's fees and not less than \$500,000.00 in other damages arising out of the unlawful deprivation of the Applicant's property rights.

If there are any questions about this rezoning request, you may contact me at 404-926-4545 or at dougd@wncwlaw.com.

Sincerely,

WEISSMAN, NOWACK, CURRY & WILCO, P.C.


G. Douglas Dillard
Attorney for Applicant

Weissman, Nowack, Curry & Wilco, P.C.
3500 Lenox Road, NE, 4th Floor
Atlanta, GA 30326
404-926-4545